



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

JUL 30, 2002

Number: **INFO 2002-0147**
Release Date: 9/30/2002
Index No.: 4041.00-00

CONEX-137928-02
CC:PSI:B8

[REDACTED]

Dear [REDACTED]:

This letter refers to your inquiry dated June 28, 2002, on behalf of your constituent, [REDACTED]. [REDACTED] wrote because he received a letter from [REDACTED] stating that [REDACTED] could no longer give his fire company a tax exemption for diesel fuel because of a new federal regulation.

I responded directly to [REDACTED], as you requested. I am enclosing a copy of my response. I told [REDACTED] no new federal law or regulation affects eligibility for an exemption, and while his current supplier of diesel fuel is evidently unwilling to sell diesel fuel at a tax-excluded price, the fire company may be able to find a new supplier that will.

I hope this information is helpful. If you have any questions, please contact me at (202) 622-3130.

Sincerely,
Associate Chief Counsel
(Passthroughs and Special Industries)

By:
Richard A. Kocak
Chief, Branch 8

Enclosure



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Dear [REDACTED]:

This letter refers to your recent inquiry to Congressman [REDACTED], which he forwarded to us for response.

You forwarded Congressman [REDACTED] a letter dated April 26, 2001, from [REDACTED]. The letter from [REDACTED] states it can no longer give your fire company a tax exemption for diesel fuel because of a new federal regulation effected on June 1, 2001. Congressman [REDACTED] asked us to explain why this change was made.

No new federal law or regulation affects eligibility for an exemption from the excise tax on diesel fuel. The IRS ruled that nonprofit, volunteer fire departments fall within the exemption the Internal Revenue Code (the Code) provides for liquid fuels used exclusively by states and their political subdivisions [Revenue Ruling 77-387, copy enclosed].

While diesel fuel may be sold to a volunteer fire company at a tax-excluded price, the only person that can claim a refund or credit for the tax on that diesel fuel is its registered ultimate vendor [Section 6427(l)(5) of the Code]. We do not have enough facts, but perhaps [REDACTED] believes, possibly mistakenly, that it does not qualify as a registered ultimate vendor. Consequently, it is not selling the fuel to your volunteer fire company at a tax-excluded price.

While your current supplier is evidently unwilling to sell diesel fuel at a tax-excluded price, you may be able to find a different vendor that will. It would be helpful if you asked the prospective new supplier if it is a registered ultimate vendor willing to sell the diesel fuel at a tax-excluded price.

I hope this information is helpful. If you have any questions, please contact me at (202) 622- 3130.

Sincerely,
Associate Chief Counsel
(Passthroughs and Special Industries)

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Richard A. Kocak
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